

**UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
BALTIMORE DIVISION**

Sheila Smith,	:
	:
	: Civil Action No.: _____
Plaintiff,	:
v.	:
Educational Credit Management Corporation,	: COMPLAINT
	:
Defendant.	:
	:
	:

For this Complaint, Plaintiff, Sheila Smith, by undersigned counsel, states as follows:

JURISDICTION

1. This action arises out of Defendant's repeated violations of the Telephone Consumer Protection Act, 47 U.S.C. § 227, *et seq.* (the "TCPA").
2. Venue is proper in this District pursuant to 28 U.S.C. § 1331(b), in that Defendant transacts business in this District and a substantial portion of the acts giving rise to this action occurred in this District.

PARTIES

3. Plaintiff, Sheila Smith ("Plaintiff"), is an adult individual residing in Baltimore, Maryland, and is a "person" as defined by 47 U.S.C. § 153(39).
4. Defendant, Educational Credit management Corporation ("ECMC"), is a Minnesota business entity with an address of 1 Imation Place, Building 2, Oakdale, Minnesota 55128, and is a "person" as defined by 47 U.S.C. § 153(39).

FACTS

5. In or around April 2015, ECMC began calling Plaintiff's cellular telephone, number 443-XXX-7879, in an attempt to reach "Sharon Wade".

6. At all times mentioned herein, ECMC called Plaintiff from telephone number 866-945-6305 using an automatic telephone dialing system (“ATDS”) and using an artificial or prerecorded voice.

7. Plaintiff never provided her cellular telephone number to ECMC and never provided her consent to receive automated calls from ECMC.

8. When Plaintiff answered calls from ECMC, she heard a prerecorded message that instructed her to press “1” if she was Sharon Wade or press “2” if she was not.

9. On numerous occasions, Plaintiff pressed 2 to indicate that she was not Sharon Wade. Plaintiff also verbally instructed ECMC to stop calling her cellular telephone number.

10. Nevertheless, ECMC continued to place automated calls to Plaintiff’s cellular telephone number.

COUNT I
VIOLATIONS OF THE TCPA –
47 U.S.C. § 227, et seq.

11. Plaintiff incorporates by reference all of the above paragraphs of this Complaint as though fully stated herein.

12. At all times mentioned herein, Defendant called Plaintiff’s cellular telephone number using an ATDS and using a prerecorded or artificial voice.

13. Defendant continued to place automated calls to Plaintiff’s cellular telephone number despite knowing that it lacked consent to do so. As such, each call placed to Plaintiff was made in knowing and/or willful violation of the TCPA, and subject to treble damages pursuant to 47 U.S.C. § 227(b)(3)(C).

14. The telephone number called by Defendant was assigned to a cellular telephone service pursuant to 47 U.S.C. § 227(b)(1).

15. The calls from Defendant to Plaintiff were not placed for “emergency purposes” as defined by 47 U.S.C. § 227(b)(1)(A)(i).

16. Plaintiff is entitled to an award of \$500.00 in statutory damages for each call made in negligent violation of the TCPA pursuant to 47 U.S.C. § 227(b)(3)(B).

17. Plaintiff is entitled to an award of treble damages in an amount up to \$1,500.00 for each call made in knowing and/or willful violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays that judgment be entered against Defendant:

1. Statutory damages of \$500.00 for each violation determined to be negligent pursuant to 47 U.S.C. § 227(b)(3)(B);
2. Treble damages for each violation determined to be willful and/or knowing pursuant to 47 U.S.C. § 227(b)(3)(C); and
3. Such other and further relief as may be just and proper.

TRIAL BY JURY DEMANDED ON ALL COUNTS

Dated: March 23, 2016

Respectfully submitted,

By /s/ Sergei Lemberg
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